S e Court, U.S.
FILED

No. 041513 MAY 9 - 2005

OFFICE OF THE CLERK

In The

Supreme Court of the United States

ERIC M. MAYNARD,

Petitioner,

v.

F. DOUGLAS STUMP, Commissioner of the Department of Motor Vehicles for the State of West Virginia,

Respondent.

On Petition For Writ Of Certiorari To The West Virginia Supreme Court Of Appeals

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Whether the State of West Virginia exceeded their state sovereignty in their exercising jurisdiction over the petitioner in suspending his privilege to operate a motor vehicle in the State of West Virginia based upon petitioner's conviction in the State of Maryland for DUI, upon which at the time of conviction petitioner was also a resident of the State of Maryland, thereby infringing upon petitioner's due process rights as guaranteed by the Fourteenth Amendment of the United States Constitution.

2. Whether the State of West Virginia Court's decision in so holding that petitioner's "home state" for purposes of the Driver License Compact so enacted by and between the State of West Virginia and the State of Maryland, as well as many other states, correctly interprets the provisions of that Compact, when that decision is in direct conflict with the decision of another state's court of last resort concerning the same definition in said Compact, the result of which infringes upon the petitioner's due process rights as guaranteed by the Fourteenth Amendment of the United States Constitution.

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WRIT OF CERTIORARI

The petitioner respectively petitions this court for a Writ of Certiorari to review this case decided below by the West Virginia Supreme Court of Appeals and the Circuit Court of Kanawha County, West Virginia.

OPINIONS BELOW

That the refusal to review order of the West Virginia Supreme Court is contained in an unpublished decision in case number 041993, decided February 9th, 2005. App. 1. The West Virginia Supreme Court refused to hear petitioner's petition for appeal from the denial of a Writ of Prohibition/Writ of Mandamus decided by the Kanawha County Circuit Court, in an opinion dated September 7th, 2004, in Civil Action number 04-MISC-212, also being an unpublished decision. App. 2-5. The conflicting state court of last resort decision is from the Commonwealth of Pennsylvania, in a matter styled *Berner v. Department of Transportation, Bureau of Driver Licensing*, 746 A. 2d 1207 (Pa. Cmwlth. 2000), which petitioner so represents is directly in conflict with the decision arrived by the West Virginia Courts upon an identical factual scenario so interpreting the same statutory language enacted by both states as members of the Driver License Compact. App. 17-24.

STATEMENT OF JURISDICTION

The court has jurisdiction to review this petition with respect to this case pursuant to 28 U.S. C. § 1257. The order refusing petitioner's appeal to the West Virginia

Supreme Court was entered February 9th, 2005, upon which the petitioner brings his Writ of Certiorari before this court.

RULES OF LAW INVOLVED

This case involves the basic principle of state sovereignty as originally laid down in *Pennoyer v. Neff*, 95 U.S. 714 (1877), wherein the *Pennoyer* court stated that "a state's assertion of power beyond its borders violates the Due Process Clause of the Fourteenth Amendment." *Pennoyer v. Neff*, 95 U.S. at 733. The State of West Virginia seeks to enforce its laws against an out of state resident for actions occurring solely out-of-state, thereby exceeding its state's sovereignty and jurisdiction. West Virginia and Maryland are both members of the Driver License Compact, as well as the Commonwealth of Pennsylvania and forty-two other states. The West Virginia Court's interpretation of the definition of "home state" in this mutual compact between these states is in direct conflict with the decision of the Commonwealth of Pennsylvania's court of last resort in an identical factual scenario. The impact of the West Virginia Court's interpretation of the term "home state" is an unconstitutional infringement of petitioner's due process rights as guaranteed by the Fourteenth Amendment, in that respondent attempts to exercise jurisdiction over an out-of-state resident for conduct occurring solely out of state.

STATEMENT OF THE CASE

The petitioner Eric M. Maynard was born, raised, and educated in West Virginia, having graduated from West Virginia University in the summer of 2000 with a B.S. in Geology. Petitioner continued to reside with his parents while working at his first job as a geologist in Logan, West Virginia, but in the summer of 2002, petitioner obtained new employment as a geologist in Frederick, Maryland. Petitioner obtained an apartment in Frederick, Maryland, and moved into his new apartment on August 1st, 2002. (See attached copy of petitioner's lease agreement dated August 1st, 2002, App. 6 & 7.) Petitioner's first day at work was Monday August 5th, 2002, and in his exuberance from his new employment and with being finally out of his parent's nest, petitioner over celebrated and was arrested for DUI in Frederick, Maryland, on August 4th, 2002. At the time of his arrest petitioner still possessed his West Virginia driver's license, but as so required by West Virginia and Maryland statutes from his change in residency, petitioner surrendered his license to the Maryland Motor Vehicle Authorities on August 29th, 2002, and thereupon was issued a Maryland license. Petitioner then appeared in Maryland upon his DUI charge on September 26th, 2002, and pled guilty to that offense. Accordingly, the Maryland MVA revoked his Maryland license, and on November 18th, 2002, petitioner was permitted to participate in the Maryland Interlock Program, which is a restrictive license in which a devise is placed in a vehicle to detect the presence of alcohol when engaging said vehicle. (See attached copy of petitioner's Maryland MVA records setting forth the sequence of events taken by the Maryland MVA, App. 8, 9 & 10.)

That for reasons unclear the petitioner's DUI conviction was reported by Maryland MVA to the West Virginia DMV, the respondent herein, and by order of revocation dated January 14th, 2003, the respondent's Director of Driver Services attempted to notify the petitioner that his driving privileges in the State of West Virginia were suspended for a minimum period of 5 years based upon that conviction for DUI in Maryland, and based upon the petitioner's previous DUI revocation in West Virginia in 1999. Petitioner had a DUI arrest and conviction in the State of West Virginia in 1999, while he was still a West Virginia resident and license holder. His license was revoked in that previous matter and was eventually reinstated once he completed the appropriate safety and treatment programs and a period of revocation. However, the petitioner was unaware of the actions taken by the respondent due to the fact that the respondent mailed its order of revocation to petitioner's old West Virginia license address, despite the fact that it had been notified by the State of Maryland that petitioner had surrendered his West Virginia license, that a Maryland license had been issued in August of 2002, and respondent was provided with the petitioner's new Maryland address. (See attached copy of the notification by Maryland MVA to respondent so notifying them of the petitioner's Maryland DUI conviction on September 26th, 2002, and respondent's order dated January 14th, 2003, mailed to petitioner's old West Virginia address, App. 11-14.)

The petitioner being unaware of the action taken by the respondent set about and completed all requirements required by the State of Maryland MVA to restore his driver's license in Maryland, and was notified by letter dated November 7th, 2003, from the Maryland MVA that

he had completed all requirements to remove the interlock restriction from his license to so obtain his regular Maryland driver's license. (See attached is the November 7th, 2003, letter from Maryland MVA, App. 15 & 16.) Upon taking that letter to a Maryland MVA branch, he was then first notified of the West Virginia suspension, and that pursuant to the Driver License Compact between those two states, that Maryland could not issue a regular license, and that his only option was to continue with a restrictive interlock license until he cleared that West Virginia suspension.

The petitioner continues to reside in the same apartment that he took up residence in on August 1st, 2002, and still possesses only a restrictive license in the State of Maryland, based upon the actions taken by the respondent. Petitioner understands that the State of Maryland MVA is simply following the language of the Driver License Compact in their refusal to issue his regular license, and that the infringement upon petitioner's due process rights is based solely upon respondent's actions in attempting to exercise jurisdiction *over* an out-of-state resident for conduct occurring outside of West Virginia, thus in excess of West Virginia's state sovereignty.

REASONS FOR GRANTING THE WRIT

The reasons for granting this writ are two-fold: the first being that the State of West Virginia has exceeded its sovereignty by attempting to exercise jurisdiction over the petitioner in suspending his privilege to operate a vehicle in the State of West Virginia based upon a DUI conviction occurring in the State of Maryland. At the time

of conviction petitioner was a Maryland resident and license holder, and thus the respondent's attempt to invoke the provisions of the Driver License Compact existing between those two states infringes upon the petitioner's due process rights as guaranteed by the Fourteenth Amendment of the United States Constitution. Petitioner further contends that the respondent has misinterpreted the language of the Driver License Compact, the effect of which likewise infringes upon your petitioner's due process rights.

The principle of state sovereignty is implicit in our federal scheme of government and the basic principles recognized by this court concerning state sovereignty were originally laid down in *Pennoyer v. Neff*, 95 U.S. 714 (1877), and can be summarized as holding that a state's sovereignty over persons, property, and activities extends only to its territorial limits, and its laws have no operation in any other states, except as allowed by those states or by comity, and that a state's assertion of power beyond its borders violates the Due Process Clause of the Fourteenth Amendment. *Pennoyer v. Neff*, 95 U.S. at 720-722 and 733. This court has consistently upheld this principle of law implicit in our federal scheme of government and has more recently stated this principle by holding that "the sovereignty of each state, in turn, implies a limitation on the sovereignty of all its sisters states – a limitation express or implicit in both the original scheme of the Constitution and the Fourteenth Amendment." *World-Wide Volkswagen Corp. v. Woodson*, 444 U.S. 286, 293 (1980). Thus, "any attempt directly to assert extraterritorial jurisdiction over persons or property would offend sisters states and exceed the inherit limits of the state's power." *Shaffer v. Heitner*, 433 U.S. 186, 197 (1977).

The respondent argues that the fact that the petitioner held a West Virginia driver's license on the date of his arrest confers jurisdiction to West Virginia, pursuant to the Driver License Compact, as contained in West Virginia Code 17B-1A-1, in its action taken against the petitioner in suspending petitioner's privilege to drive in the State of West Virginia. The petitioner hereby submits that it is without question in this matter that petitioner became a resident of the State of Maryland on August 1st, 2002, and thereafter in compliance with both state's statutes concerning driver's licenses, he thereupon surrendered his West Virginia license to the Maryland MVA, and was then issued a Maryland license. The only contact, ties, or relations for due process analysis is the fact that at the time of petitioner's arrest he still possessed a West Virginia license. Petitioner hereby contends that said contact is not a sufficient minimum contact between the petitioner and the State of West Virginia to so permit the respondent to exercise jurisdiction over the petitioner, in that the petitioner at the time of his conviction was clearly a Maryland resident, and that the prohibited conduct occurred solely in the State of Maryland. *World-Wide Volkswagen Corp. v. Woodson*, 444 U.S. 286 (1980).

The Driver License Compact, in particular the definition of "home state", is currently the existing law of not only the State of West Virginia, the State of Maryland, and Commonwealth of Pennsylvania, but further is currently the law in forty-five states and the District of Columbia. Petitioner's counsel cannot represent to this court the number of license holders, in those states which are members of the Driver License Compact, who have been previously subjected to similar due process infringement by state licensing authorities. However, in this day and

age of frequently changing employment and residency, petitioner's counsel can only speculate that this same factual scenario has occurred hundreds, if not on thousands of occasions. Petitioner's counsel would further speculate that the costs of attorney fees and expenses would highly discourage any petitioner in litigating this issue through their state courts and to this court upon this issue, thus explaining why this issue has never been presented to the court to petitioner's counsel's knowledge.

Thus, petitioner's first question upon which he seeks review by this court is a very simple question of state sovereignty. Petitioner hereby contends that the State of West Virginia, through the respondent as its licensing authority, has exceeded its state's sovereignty and jurisdiction in suspending the petitioner's driving privileges in the State of West Virginia, based upon conduct occurring outside of the State of West Virginia upon which at the time of conviction the petitioner was no longer a West Virginia resident or license holder. Petitioner hereby submits that said action by the respondent violates his due process rights as guaranteed by the Fourteenth Amendment of the United States Constitution, and that the sole fact that he was a license holder of the State of West Virginia at the time of his arrest, does not present sufficient minimum contacts with the State of West Virginia, once particularly considering that on the day of his arrest he was no longer a resident of the State of West Virginia, and further that at the time of conviction he was no longer a license holder of the State of West Virginia.

Petitioner understands that the State of Maryland is simply following the language of the Driver License Compact in their refusal to reissue his regular Maryland license, and that Maryland MVA's actions are predicated

solely upon the respondent's suspension of his privilege to operate a motor vehicle in the State of West Virginia, pursuant to their interpretation of the Driver License Compact definition of *"home state"*. The petitioner not only claims that such conduct is an infringement of his due process rights, but further claims that said interpretation is incorrect and does not follow the express and unambiguous language of the Driver License Compact, in that there is no mention of the term "arrest" in said compact. The operative language at issue in said compact is contained in West Virginia Code 17B-1A-1, Article IV, Effect of Conviction (a), wherein it states that: "The licensing authority in the home state, for the purposes of suspension, revocation, or limitation of the license to operate a motor vehicle, shall give the same effect to the conduct reported, pursuant to Article III of this compact, as it would if such conduct had occurred in the home state, in the case *convictions* for: (2) "Driving a motor vehicle under the influence of intoxicating liquor. . . . " (Emphasis added) Article III of the compact concerns reports of conviction, wherein "the licensing authority of a party state shall report each conviction of a person from another party state occurring within its jurisdiction to the licensing authority of the home state of the licensee." Article II (b) defines "home state" as "the state which issued and has the power to suspend or revoke the use of the license or permit to operate a motor vehicle." Nowhere in the Driver License Compact is the word "arrest" ever mentioned. Why the Maryland MVA reported the conviction in Maryland of a Maryland resident and Maryland license holder remains unknown in this case, but such reporting to the respondent does not empower the respondent with jurisdiction over the petitioner, he being a Maryland resident and license holder at the time of his conviction.

The Petitioner further understands that this court would not ordinarily accept and review the interpretation of a state statute by a state court of last resort, however, the second issue presented in this writ concerns the fact that another member of the Driver License Compact, being the Commonwealth of Pennsylvania in a matter styled *Berner v. Department of Transportation Bureau of Driver Licensing*, 746 A.2d 1207 (Pa. Cmwlth. 2000), presents this court with a conflicting decision from another state court of last resort. Once again, the important federal question upon which the petitioner seeks review in this matter are his due process rights as guaranteed by the Fourteenth Amendment, in that one state is attempting to exercise jurisdiction over an out of state resident and license holder for conduct occurring solely out of state, thus in excess of its state's sovereignty and those principles clearly laid down by this court in *Pennoyer v. Neff* and its progeny.

In *Berner,* the licensee attended school in New York, but maintained a Pennsylvania driver's license. At the time of her DWI arrest in New York, the licensee produced her Pennsylvania license to the New York authorities. Prior to entering her guilty plea, she surrendered that Pennsylvania license and obtained a New York driver's license. The New York Department of Motor Vehicles then reported her conviction to PennDOT which notified her that her Pennsylvania operating privileges would be suspended. The *Berner* court held that because the licensee did not hold a Pennsylvania license at the time of her conviction, PennDOT was no longer the "home state" as defined in this compact. The *Berner* court went on to explain that PennDOT's authority under the compact to suspend the operating privileges of a Pennsylvania licensee in accordance with Pennsylvania law arises when the

Bureau received proper notification that such a licensee has been convicted by a member state of the DWI offense substantially similar to the offense articulated in Article IV(a)(2) of the compact. *Berner v. Department of Transportation, Bureau of Drivers Licensing*, 746 A. 2d 1207, 1208, (Pa. Cmwlth. 2000).

The petitioner hereby submits that this is the identical factual scenario presented in this matter, in that the petitioner being a previous West Virginia resident and license holder, then moved to the State of Maryland and within a few days was arrested for DUI in Maryland. Consistent with Maryland and West Virginia licensing statutes, he then surrendered his West Virginia license to the Maryland MVA and was then issued a Maryland license. He was then later convicted of DUI and, accordingly, Maryland MVA revoked his Maryland license. This factual scenario is not distinguishable from the facts presented in the *Berner* case, and thus the conflict existing between these two states in that interpretation of the definition of "home state" presents an important federal question, so considering that the due process rights involved in this matter, and the alleged infringement thereof, are surely frequently occurring throughout these and many other states in the transient society that has developed in this 21st Century.

What is particularly troubling for your petitioner to understand is Judge Berger's finding in Paragraph 12 of that order denying the petitioner's Writ of Prohibition/Writ of Mandamus before the Kanawha County Circuit Court, so stating that: "The relevant date for purposes of this matter is the date of arrest" Judge Berger cites no statutory language for this conclusion, and as mentioned the word "arrest" is never mentioned in the Driver License

Compact. This flawed interpretation is then compounded by the West Virginia Supreme Court's refusal to even hear the petitioner's petition for appeal to that court.

Petitioner having shown that there is a conflict in at least two state courts of last resort decisions in regard to this issue, and considering the due process rights of the petitioner and all other similar situated individuals that have or could encounter this same factual scenario, thus presents an important federal question for this court to consider, in particular when coupled with the first issue presented herein concerning petitioner's claim that the respondent lacks jurisdiction over the petitioner in his actions taken upon a statute that exceeds West Virginia's state sovereignty.

CONCLUSION

For the foregoing reasons, the petitioner hereby submits that his Writ of Certiorari should be granted upon either the state sovereignty issue, or upon the issue of conflict between state courts of last resort decisions, concerning the important federal question presented herein concerning petitioner's due process rights.

Respectfully submitted,

R. LEE BOOTEN II
Counsel of Record
637 7th Street
P. O. Box 1821
Huntington, WV 25719
(304) 522-4601

Attorney for Petitioner

STATE OF WEST VIRGINIA

At a Regular Term of the Supreme Court of Appeals continued and held at Charleston, Kanawha County, on the 9th of February, 2005, the following order was made and entered:

Eric M. Maynard, Petitioner Below,
Petitioner

vs.) No. 041993

F. Douglas Stump, Commissioner of the
Division of Motor Vehicles, Respondent
Below, Respondent

On a former day, to-wit, October 22, 2004, came the petitioner, Eric M. Maynard, by R. Lee Booten II, his attorney, and presented to the Court his petition praying for an appeal from a judgment of the Circuit Court of Kanawha County, rendered on the 7th day of September, 2004, with the record accompanying the petition.

Upon consideration whereof, the Court is of opinion to and doth hereby refuse said petition for appeal. Chief Justice Albright would grant.

A True Copy

Attest: /s/ Rory L. Perry II
Clerk, Supreme Court of Appeals

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

ERIC M. MAYNARD,

Petitioner,

v.

F. DOUGLAS STUMP, Commissioner of the Division of Motor Vehicles,

Respondent.

Civil Action No. 04-MISC-212
Irene C. Berger, Judge

ORDER DENYING REQUEST FOR WRIT

(Filed Sep. 7, 2004)

On July 28, 2004, came the Petitioner, Eric M. Maynard, by counsel, R. Lee Booten, Esquire, and Respondent, F. Douglas Stump, by counsel, Janet E. James, Assistant Attorney General, for hearing on Petitioner's *Petition for Writ of Prohibition/Petition for Writ of Mandamus.* Having maturely considered said *Petition,* the proffer and arguments of counsel and the entire record before it, this Court hereby makes the following findings and conclusions:

1. On August 1, 2002, Petitioner moved from West Virginia to Maryland, where he rented an apartment.

2. On August 4, 2002, Petitioner was arrested in Maryland for driving under the influence of alcohol (hereinafter, "DUI") while operating a motor vehicle on a West Virginia driver's license.

3. Petitioner was subsequently convicted for DUI in Maryland, which conviction was reported to the State of West Virginia.

4. As a result of the DUI conviction, Respondent revoked Petitioner's West Virginia driver's license.

5. On August 29, 2002, Petitioner surrendered his West Virginia license to Maryland, and was granted a provisional Maryland license and allowed to participate in Maryland's "Interlock" program in order to resolve the revocation of his license in Maryland. He completed the requirements of the Interlock program in Maryland on November 20, 2003.

6. Petitioner seeks a writ to prohibit Respondent from revoking Petitioner's license because he is a non-resident, or alternatively, to compel Respondent to restore Petitioner's West Virginia driving privileges on the basis that he has completed all requirements for reinstatement of his license in West Virginia.

7. W. Va. Code § 17B-3-3 allows for the suspension or revocation of the license or privilege of a non-resident to drive in this state upon receiving notice of a conviction of an offense which, if committed here, would be grounds for suspension or revocation.

8. W. Va. Code §17B-3-5 requires revocation of the license of any driver upon receiving record of a final conviction for DUI from another state if its statute has the same elements as our statute.

9. Both West Virginia and Maryland are party states to the interstate "Drivers License Compact" (hereinafter, "Compact") by which party states report convictions. Pursuant to W. Va. Code § 17B-1A-1, Article III, "The licensing authority of a party state shall report each conviction of a person *from another party state* occurring within its jurisdiction to the licensing authority of the home state of the licensee. . . . ". (emphasis added).

10. "Home state" is not defined in terms of residency. W. Va. Code § 17B-1A-1, Article II defines "home state" as "the state which has issued and has the power to suspend or revoke the use of the license or permit to operate a motor vehicle."

11. W. Va. Code § 17B-1A-1, Article IV requires the "home state" to give the "same effect to the conduct reported, pursuant to article III of this compact, as it would if such conduct had occurred in the home state", in the case of convictions for, *inter alia,* DUI.

12. The relevant date for purposes of this matter is the date of arrest. Petitioner was "from another party state" when he was arrested for DUI in Maryland on August 4, 2002. The Court does not accept the Petitioner's argument that he must be a resident of West Virginia at the time of conviction in order to have his license revoked by the West Virginia Division of Motor Vehicles.

13. Clearly, West Virginia was the "home state" as defined in the Compact, and thus under Article IV of the Compact, Respondent had the statutory authority to revoke or suspend Petitioner's license.

14. The Court also rejects Petitioner's argument that West Virginia must accept and abide by the results of Petitioner's completion of the Interlock program in Maryland, as no statute or rule requires that such reciprocity be given.

15. Consequently, it is the finding of the Court that Petitioner has no clear right to the relief he seeks, and the Respondent has no clear legal duty to reinstate Petitioner's privilege to drive or to grant reciprocity with respect to the Interlock program.

It is therefore **ORDERED, ADJUDGED** and **DECREED** that Petitioner's request for a writ of prohibition or mandamus is hereby **DENIED**, and further it is ordered that this matter be **DISMISSED** from the docket of this Court.

The objections and exceptions of the Petitioner to this Order are hereby noted and preserved.

It is further **ORDERED** that the Clerk of this Court send copies of this Order to counsel for all parties.

Entered this 7th day of September, 2004.

/s/ Irene C. Berger
Irene C. Berger, Judge

Prepared By:

/s/ Janet E. James
Janet E. James #4904
Assistant Attorney General
Office of the Attorney General
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(304) 558-2522
Counsel for Respondent

Inspected By:

R. Lee Booten, II, Esquire
637 7th Street
Huntington, WV 25701
Counsel for Petitioner

STATE OF WEST VIRGINIA
COUNTY OF KANAWHA, SS
I, CATHY S. GATSON, CLERK OF CIRCUIT COURT OF SAID COUNTY AND IN SAID STATE, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE COPY FROM THE RECORDS OF SAID COURT, GIVEN UNDER MY HAND AND SEAL OF SAID COURT THIS 7th DAY OF September 2004
/s/ Cathy S. Gatson CLERK CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

FREDERICK COUNTY ONLY
LEASE AGREEMENT

This Lease made this **First** day of **August 2002**, by and between Frederick Heights Limited Partnership hereafter called the "Owner," and **Brett Stark and Eric Maynard** hereinafter called the "Resident."

WITNESSETH:

That in consideration of the representations made in the Application filed by the Resident with the Owner, the rent herein reserved, and the covenants herein contained and by the said Resident to be preformed, the Owner hereby leases to the Resident, and the Resident leases from the Owner, the premises known as:

Apartment No: ***1084 Carlton Place Apt. 2c*** in ***Frederick, Md. 21703*** For the term of **Twelve** months commencing on the first day of ***August***, **2002** and fully ending at midnight on the ***31st*** day of ***July, 2003*** at and for the total rental during the first Twelve (12) month of **($9,408.00)** Dollars payable in advance without deduction or demand, in equal monthly installments of ***Seven Hundred Eighty Four and no/100*** (Dollars **($784.00)** for the said first one (12) months. All rent is due advance without deduction or demand and all payments are due on the first day of each month during any term of this Lease at the rental office of the Owner located at ***1072 Redfield Court Apt. 1A, Frederick, Md. 21703*** or at such other place designated by the Owner.

It is understood and agreed that Resident is taking possession of the premises on ***August 1, 2002*** is to the sum of ***Seven Hundred Eighty Four and no/100***

(**$*784.00***). Dollars as rent from the date of possession through August 31, 2002. On, **N/A** an additional **N/A** (**$N/A**) will be due. Thereafter, rent in the amount of **$784.00** will be due and payable on the First day of the month commencing ***September 1, 2002***.

A **$*150.00*** security deposit has been received by the Owner from the Resident.

Occupants of the apartment to be:

Brett Stark And Eric Maynard

THE LEASE CONSISTS OF THIS PAGE AND THE FOUR (4) FOLLOWING PAGES PLUS SIGNED ADDENDUM(S), I HAVE READ THE ENTIRE DOCUMENT BEFORE SIGNING.

OWNER Frederick Heights Limited Partnership

/s/ Brett Stark
RESIDENT **Brett Stark**

/s/ Eric Maynard
RESIDENT **Eric Maynard**

/s/ Maria McLaughlin/AGENT

[LOGO] 6601 Ritchie Highway, N.E. 49937853
Glen Burnie, Maryland 21062
Motor Vehicle Administration

AS MOTOR VEHICLE ADMINISTRATOR FOR THE STATE OF MARYLAND AND BY VIRTUE OF THE AUTHORITY VESTED IN ME UNDER THE TRANSPORTATION ARTICLE, MARYLAND VEHICLE LAW, I DO HEREBY CERTIFY, UNDER PENALTY OF PERJURY, THAT THE FOLLOWING IS A TRUE COPY TAKEN FROM THE ORIGINAL NOW ON FILE AND PART OF THE RECORDS OF THIS ADMINISTRATION.

04993854

M 563-234-589-308
ERIC MATTHEW MAYNARD
RES: 1084 CARLTON PLACE APT 2C CERTIFIED
FREDERICK F MD 21703

HGT	WGT	RACE	SEX	BIRTH-DATE	PAGE
5-06	160	2	M	04-21-77	1

DRIVING PRIVILEGE STATUS: VALID

LIC-CLASS	GLS-TY	TY	O	DOC	ISSUE-DT
CLASS C		C	R	P	11/20/02

EXPIR-DT	ENDOR	RESTRICTION	SP-RESTR
04/21/08			J

THE RECORD REFLECTS ENTRIES
FOR THE PAST 36 MONTHS

V/ADM DT	CONV DT	SUMMARY	DESCRIPTION	PTS
08-04-02		AJK13063	ORDER OF SUSPENSION ISSUED REFUSED 1ST CHEMICAL TEST	

08-04-02				LICENSEE SIGNED STATEMENT – NO LICENSE IN POSSESSION
08-22-02		AJK13063		HEARING REQUESTED PROPOSED SUSPENSION STAYED
08-29-02		WV		MD LICENSE ISSUED/OUT OF ST LIC SURRENDERED/VOIDED
10-15-02			111802	HEARING SCHEDULED REFUSED CHEMICAL TEST-1ST OCCASION
11-18-02		07CN08290ZA/A		DRIVER LICENSE RECEIVED AT MVA AND DESTROYED
11-18-02	082202			STAY WITHDRAWN
11-18-02		12M	SO	HEARING-INTERLOCK RESTRICTION ON ALL VEHICLES OPERATED

CONTINUED NEXT PAGE

* * *

MARYLAND AND FEDERAL LAW PROHIBITS UNAUTHORIZED DISCLOSURE OF INFORMATION FROM MVA RECORDS. VIOLATION OF THESE PROVISIONS IS A MISDEMEANOR PUNISHABLE BY A FINE UP TO $1000 DOLLARS.

AS WITNESS, MY HAND AND THE SEAL OF THIS ADMINISTRATION THE DAY AND YEAR SET OPPOSITE.

STATE OF MARYLAND
DEPARTMENT OF TRANSPORTATION
MOTOR VEHICLE ADMINISTRATION

E710323/283415 B

****

LICENSEE/RESIDENT FROM YOUR STATE HAS BEEN CONVICTED OF VIOLATION IN THE STATE OF MARYLAND. THIS INFORMATION FORWARDED FOR WHATEVER ACTION YOU DEEM NECESSARY.

****

****** DEFENDANT INFORMATION ******

MAYNARD, ERIC MATTHEW
1084 CARLTON PLACE
APT 2C2C
FREDERICK MD 21703

DRIVER'S LICENSE #:
E710323
DRIVER'S LICENSE
STATE: WV

DOB: 770421
SEX: M

****

****** VEHICLE INFORMATION ******

VEHICLE LICENSE #:3R4123 LIC STATE:WV
YEAR: 95 MAKE:GEO4

******VIOLATION INFORMATION******

CITATION #: BD28444 VIOLATION DATE: 080302
TRIAL DATE: 092602
LOCATION OF VIOLATION:WB US49@HOKE PL,
FREDERICK, FRED CNTY, MD
SECTION VIOLATED: TA210902 B FINE: M/A
DESCRIPTION OF VIOLATION: DRIVE/ATTEMPT TO
DRIVE WHILE IMPAIRED BY ALCOHOL (MV)

****** AGENCY INFORMATION ******

COURT LOCATION:
MARYLAND DISTRICT COURT
P.O. BOX 6676
ANNAPOLIS, MARYLAND 21401-4230
TELEPHONE: 1-410-974-7177

****

HOME JURISDICTION COPY

STATE OF WEST VIRGINIA
DIVISION OF MOTOR VEHICLES
DRIVER SERVICES
1800 KANAWHA BLVD. EAST, BLDG. 3
CHARLESTON, WV 25317
TELEPHONE: (304)558-3913/1-800-642-9066

– OFFICIAL NOTICE –
ORDER OF REVOCATION

BOB WISE
GOVERNOR

ROGER L. PRITT
COMMISSIONER

ERIC M. MAYNARD
8 DAMASCUS ROAD
ONA WV 25545

FILE NUMBER: 283415B
LICENSE NUMBER: E710323
REVOCATION EFFECTIVE DATE: 01/14/2003

YOU ARE HEREBY OFFICIALLY NOTIFIED THAT YOUR PRIVILEGE TO OPERATE ANY MOTOR VEHICLE IN THE STATE OF WEST VIRGINIA HAS BEEN REVOKED FOR TEN (10) YEARS AS OF THE DATE OF THIS LETTER, ELIGIBLE IN 5 YEARS, AND THEREAFTER UNTIL YOU COMPLETE THE SAFETY AND TREATMENT PROGRAM, AND THEREAFTER ACCORDING TO ANY PREVIOUS ORDER ISSUED BY THIS DIVISION.

THE REASON FOR YOUR REVOCATION IS THAT YOU HAVE BEEN CONVICTED OF DRIVING UNDER THE INFLUENCE ON SEP 26, 2002 IN THE COURT NAMED BELOW:

MARYLAND

YOUR PRIOR RELATED CONVICTIONS ARE AS FOLLOWS:

DRIVING UNDER THE INFLUENCE ON 10/30/99
IN THIS COURT: WEST VIRGINIA

AFTER THE REVOCATION PERIOD, YOU WILL BE REQUIRED TO SUBMIT A $15.00 REINSTATEMENT FEE. THE DIVISION REQUIRES THESE FEES TO BE PAID BY MONEY ORDER, CASHIER CHECKS, OR CERTIFIED CHECKS.

THIS NOTICE DOES NOT AFFECT ANY OTHER SUSPENSIONS OR REVOCATIONS CURRENTLY IN EFFECT OR THAT WILL TAKE EFFECT IN THE FUTURE. THIS SUSPENSION OR REVOCATION MAY AFFECT YOUR ABILITY TO OBTAIN DRIVERS LICENSE IN ANOTHER STATE. ANY CONVICTION FOR DRIVING WHILE YOUR LICENSE IS SUSPENDED/REVOKED MAY RESULT IN A JAIL SENTENCE AND/OR A ONE YEAR EXTENSION OF YOUR REVOCATION PERIOD.

DATED AT CHARLESTON, WEST VIRGINIA JAN 14, 2003

DAVID H. BOLYARD, DIRECTOR
DRIVER SERVICES

[LOGO]
Motor Vehicle Administration November 07, 2003
[Address And Phone Numbers Omitted In Printing]
www.marylandmva.com
WEB SITE

ERIC M MAYNARD
1084 CARLTON PLACE APT 2C
FREDERICK MD 21703

RE: M563234589308

Dear MR. MAYNARD:

Congratulations, you completed the Maryland State Ignition Interlock Program and are eligible for removal on or after November 20, 2003. At which time you may have the ignition interlock device removed from your vehicle and the restriction removed from your license, however, if another agency (courts, DDMP, etc) requires you to have the ignition interlock device then you must have approval from them before having the device removed.

All you have to do to have the ignition interlock device removed from your vehicle is to contact the vendor who installed the device about making an appointment. Once you have the appointment **you must take this letter with you** to have the device removed.

To obtain a license without the restriction you may go to any Motor Vehicle branch office with your restricted license and this letter and apply for the driver's license.

If we receive evidence that there are any violations of the program provisions that occur during your restriction period after the device is removed, Administration sanctions may be taken against your driving privilege.

If you have any questions or need further assistance, please contact me at 410-787-7798.

Sincerely,

/s/ Anne Stratmann
Anne Stratmann
Administrative Officer III
Driver Wellness & Safety Division

DCD-166

ARTICLE 1A.

DRIVER LICENSE COMPACT.

Sec.
17B-1A-1. Authorization.
17B-1A-2. Definitions; implementation of compact.

§ 17B-1A-1. Authorization.

Pursuant to authority granted by an act of the eighty-fifth Congress of the United States, being public law six hundred eighty-four, approved the twentieth day of August, one thousand nine hundred fifty-eight, the governor of this State is hereby authorized and directed to execute a compact on behalf of the State of West Virginia with all other jurisdictions legally joining therein in the form substantially as follows:

Article I. Findings and Declaration of Policy.

(a) The party states find that:

(1) The safety of their streets and highways is materially affected by the degrees of compliance with state laws and local ordinances relating to the operation of motor vehicles.

(2) Violation of such a law or ordinance is evidence that the violator engages in conduct which is likely to endanger the safety of persons and property.

(3) The continuance in force of a license to drive is predicated upon compliance with laws and ordinances relating to the operation of motor vehicles, in whichever jurisdiction the vehicle is operated.

(b) It is the policy of each of the party states to:

(1) Promote compliance with the laws, ordinances and administrative rules and regulations relating to the operation of motor vehicles by their operators in each of the jurisdictions where such operators drive motor vehicles.

(2) Make the reciprocal recognition of licenses to drive and eligibility therefor more just and equitable by considering the overall compliance with motor vehicle laws, ordinances and administrative rules and regulations as a condition precedent to the continuance or issuance of any license by reason of which the licensee is authorized or permitted to operate a motor vehicle in any of the party states.

Article II. Definitions.

As used in this compact:

(a) "State" means a state, territory or possession of the United States, the District of Columbia or the Commonwealth of Puerto Rico.

(b) "Home state" means the state which has issued and has the power to suspend or revoke the use of the license or permit to operate a motor vehicle.

(c) "Conviction" means a conviction of any offense related to the use or operation of a motor vehicle which is prohibited by state law, municipal ordinance or administrative rule or regulation, or a forfeiture of bail, bond or other security deposited to secure appearance by a person charged with having committed any such offense, and

which conviction or forfeiture is required to be reported to the licensing authority.

Article III. Reports of Conviction.

The licensing authority of a party state shall report each conviction of a person from another party state occurring within its jurisdiction to the licensing authority of the home state of the licensee. Such report shall clearly identify the person convicted; describe the violation specifying the section of the statute, code or ordinance violated; identify the court in which action was taken; indicate whether a plea of guilty or not guilty was entered, or the conviction was a result of the forfeiture of bail, bond or other security; and shall include any special findings made in connection therewith.

Article IV. Effect of Conviction.

(a) The licensing authority in the home state, for the purposes of suspension, revocation or limitation of the license to operate a motor vehicle, shall give the same effect to the conduct reported, pursuant to article III of this compact, as it would if such conduct had occurred in the home state, in the case of convictions for:

(1) Manslaughter or negligent homicide resulting from the operation of a motor vehicle;

(2) Driving a motor vehicle while under the influence of intoxicating liquor or a narcotic drug, or under the influence of any other drug to a degree which renders the driver incapable of safely driving a motor vehicle;

(3) Any felony in the commission of which a motor vehicle is used;

(4) Failure to stop and render aid in the event of a motor vehicle accident resulting in the death or personal injury to another.

(b) As to other convictions, reported pursuant to article III, the licensing authority in the home state shall give such effect to the conduct as is provided by the laws of the home state.

(c) If the laws of a party state do not provide for offenses or violations denominated or described in precisely the words employed in subsection (a) of this article, such party state shall construe the denominations and descriptions appearing in subsection (a) hereof as being applicable to and identifying those offenses or violations of a substantially similar nature and the laws of such party state shall contain such provisions as may be necessary to ensure that full force and effect is given to this article.

Article V. Applications for New Licenses.

Upon application for a license to drive, the licensing authority in a party state shall ascertain whether the applicant has ever held, or is the holder of a license to drive issued by any other party state. The licensing authority in the state where application is made shall not issue a license to drive to the applicant if:

(1) The applicant has held such a license, but the same has been suspended by reason, in whole or in part, of a violation and if such suspension period has not terminated.

(2) The applicant has held such a license, but the same has been revoked by reason, in whole or in part, of a violation and if such revocation has, not terminated,

except that after the expiration of one year from the date the license was revoked, such person may make application for a new license if permitted by law. The licensing authority may refuse to issue a license to any such applicant if, after investigation, the licensing authority determines that it will not be safe to grant to such person the privilege of driving a motor vehicle on the public highways.

(3) The applicant is the holder of a license to drive issued by another party state and currently in force unless the applicant surrender such license.

Article VI. Applicability of Other Laws.

Except as expressly required by provisions of this compact, nothing contained herein shall be construed to affect the right of any party state to apply any of its other laws relating to licenses to drive to any person or circumstance nor to invalidate or prevent any driver license agreement or other cooperative arrangement between a party state and a nonparty state.

Article VII. Compact Administrator and Interchange of Information

(a) The head of the licensing authority of each party state shall be the administrator of this compact for his state. The administrators, acting jointly, shall have the power to formulate all necessary and proper procedures for the exchange of information under this compact.

(b) The administrator of each party state shall furnish to the administrator of each other party state any

information or documents reasonably necessary to facilitate the administration of this compact.

Article VIII. Entry Into Force and Withdrawal.

(a) This compact shall enter into force and become effective as to any state when it has enacted the same into law.

(b) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until six months after the executive head of the withdrawing state has given notice of the withdrawal to the executive heads of all other party states. No withdrawal shall affect the validity or applicability by the licensing authorities of states remaining party to the compact of any report of conviction occurring prior to the withdrawal.

Article IX. Construction and Severability.

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect

as to the state affected as to all severable matters. (1972, c. 70.)

Out of state convictions. – DMV was required to treat out-of-state convictions in the same manner as it would in-state convictions. State v. Euman, 201 W. Va. 519, 558 S.E.2d 319, 2001 W. Va. LEXIS 147 (2001).

Quoted in Miller v. Cline, 193 W. Va. 210, 455 S.E.2d 769 (1995); Sniffin v. Cline, 193 W. Va. 370, 456 S.E.2d 451 (1995).

Stated in Shell v. Bechtold, 175 W. Va. 792, 338 S.E.2d 393 (1985).

Cited in Wells v. Roberts, 167 W. Va. 580, 280 S.E.2d 266 (1981).

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§ 17B-1A-2. Definitions; implementation of compact.

(1) As used in the compact, the term "licensing authority" with reference to this State, shall mean the department of motor vehicles. Said department shall furnish to the appropriate authorities of any other party state any information or documents reasonably necessary to facilitate the administration of articles III, IV and V of the compact.

(2) The compact administrator provided for in article VII of the compact shall not be entitled to any additional compensation on account of his service as such administrator, but shall be entitled to be reimbursed for all reasonable and necessary expenses actually incurred in connection with his duties and responsibilities as such administrator, in the same manner as for other such

expenses incurred in connection with any other duties or responsibilities of his office or employment.

(3) As used in the compact, with reference to this State, the term "executive head" shall mean the governor.

(4) To aid in the implementation of the compact, records required to be forwarded to the department of motor vehicles by the provisions of section four [§ 17B-3-4], article three of this chapter shall be forwarded to such department within the time and as otherwise specified in said section four.

(5) The statutes which article IV of the compact refers to are sections one, five and six [§§ 17B-3-1, 17B-3-5, 17B-3-6], article three, chapter seventeen-B, section three [§ 17D-3-3, repealed], article three, chapter seventeen-D, and section five [§ 17D-4-5], article four, chapter seventeen-D of the Code of West Virginia. (1972, c. 70.)

Editor's notes. – Section 17D-3-3, referred to in this section, was repealed by Acts 1988, c-91.